

In pursuance of the provisions of clause (3) of Article 348 of "the Constitution of India", the Governor is pleased to order the publication of the following English Translation of notification no.....1209.....dated 04-12-2017 for general information.

GOVERNMENT OF UTTARAKHAND
HOME SECTION-4
No -1209/XX-4/2017-1(6)/2013
Dehradun, Dated : 04 : 12 : 2017

Notification

In exercise of the powers conferred by sub section (5) of section 432 of the Code of Criminal Procedure, 1973 (Act No. 2 of 1974), the Governor here by makes the following general rules to give directions as to the suspension of sentences and the conditions on which Petition should be presented and dealt with, namely :-

THE UTTARAKHAND (SUSPENSION OF SENTENCES OF PRISONERS) RULE, 2017

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| Short title,
commencement
and Details | 1. | <p>(1) These rules shall be called The Uttarakhand (Suspension of Sentences of Prisoners) Rules, 2017.</p> <p>(2) They shall come into force at once.</p> <p>(3) They shall extent to the whole of the State of Uttarakhand.</p> <p>(4) These rules shall apply to the prisoners convicted by the court of Uttarakhand for such offence on which the executive power of the State extends whether they are detained within the State of Uttarakhand or outside the state under judicial custody of outside the State, but it shall not apply to :</p> <p>(A) The prisoners convicted for such offence to which the executive power of the State does not extend.</p> <p>(B) The convicted prisoners who have other criminal cases pending against them in before the court.</p> <p>(C) The convicted prisoners who have been sentenced for such offense where suspension of sentence is not admissible in any law.</p> |
| Definitions | 2. | <p>In These Rules, unless there is repugnant to the subject or context.</p> <p>(1) "Governor" means the Governor of Uttarakhand.</p> <p>(2) "Government" means the State Government of Uttarakhand.</p> <p>(3) "State" means the State of Uttarakhand.</p> <p>(4) "Document" means any documents attached with these rules.</p> <p>(5) "Prisoner" means convicted prisoner, who have been sentenced by the courts of Uttarakhand.</p> |
| Power of
suspend
sentences | 3. | <p>(1) The commissioner may suspend the sentences of a prisoner upto fifteen days on the following grounds :-</p> <p>(a) Illness of prisoner's mother, father, husband or wife, son, daughter, brother or sister, or</p> <p>(b) Death of anyone of the relative mentioned in sub clause (a), or</p> |



- (c) Marriage of son, daughter, brother or sister, or
- (d) With the restriction for sowing or harvesting of agriculture on its private land, there is no other alternate arrangement for it. For this, Khatoni or Bahi in connection with his private land ;

Provided that the suspension of the sentence on the basis will be done only in case where punishment is imposed for imprisonment up to 3 years (with fine or without fine), or

- (e) In special emergency situations where the presence of prisoner is necessary, such as the collapse of a house of the prisoner or other natural disaster, which is to be confirmed by the District Magistrate, or
- (f) For the treatment of incurable disease like Cancer, AIDS and the transplant of body limbs as liver, Kidney and Heart etc of the prisoner ;

Provided that the expenditure sum of treatment shall be borne by the prisoner or his family;

Provided further that the full effort have been done in the prison for his treatment but he is not getting well and such treatment is necessary to save his life.

- (2) The Government may on further requirement extend the period of suspension of sentence referred to in sub-rule (1) for a period not exceeding two month, In which the accepted period of rule(3)(1) will also be included.

Extension of the period of suspension after two months

4.

- (1) The period of suspension of the sentences specified in sub rule 3(2) can be extended up to three months with the prior approval of Governor if required further, in which the period of rule 3(1) and 3(2) will also be included.
- (2) The total period of suspension of sentence of the prisoner (during the entire Punishment Period) may ordinarily not exceed twelve months, but the period of the suspension of sentences of a prisoner (during the entire Punishment Period) may exceed twelve month on the justification of requirement with prior approval of Governor.

Procedure for suspension of sentence

5

- (1) The application for suspension of sentences may be submitted in prescribed Form-I by the prisoner or by a member of the family or a close relative of the prisoner in duplicate through the superintendents of the jail concerned, the jail superintendent has a copy of the case along with his comments and jail reports in Form-II through Inspector General Jail to the Government and another copy to the District Magistrate concerned.
- (2) The Government or Commissioner will call for the report from the District Magistrate and Superintendent of Police concerned on the desirability of the suspension of the sentence of the prisoners, who after conduction such enquiry as deemed necessary shall submit their report in Form-III within 30 days to the Government or Commissioner.
- (3) In appropriate cases State Government may call for the opinion the presiding Judge of the Court before or by which the conviction was had or confirmed under sub section (2) of Section 432 of the code of Criminal procedure, 1973.
- (4) The Government or Commissioner shall call for report from the superintendent of the jail concerned regarding age, condition of Health, Sentence and conduct of the prisoner in jail.
- (5) No prisoner shall be released on suspension of a sentence unless

he furnishes sureties along with personal bond and grantee of two granters to the satisfaction of the District Magistrate to the effect that he shall surrender in Jail concerned on expiry of the period of suspension of sentence and shall maintain peace and good conduct during the suspension of sentence.

Rule making powers

6. The State Government may, by notification in the official Gazette and subject to the condition of previous publication, make order to carry out the purpose of this rule but such order can be made up to two years for enforcement date of this rules.

condition for suspension of sentence

7. (1) Suspension of sentence shall not be granted to the prisoners convicted Murder robbery rape pocso treason; war against state and terrorism related crimes or other crimes in which a penalty of imprisonment of ten years or more (with fine or without fine) has been ordered served minimum four years sentence without remission. In all other cases suspension of sentence shall not be granted unless the prisoner has served minimum one year sentence without remission.
- (2) Suspension of sentence may not be granted to the prisoners convicted for heinous crime or to a habitual offender if the District Magistrate or Superintendent of police is of the opinion that the release of the prisoners may adversely affect peace and tranquility of the area.
- (3) The period of suspension of sentences shall not count towards the period of sentence served.
- (4) In case of inevitable circumstances such as death of parent's spouse, son, daughter, brother, or sister, or suspension of a prison sentence in natural disaster, suspension can be done by the District Magistrate for 72 hours.

Punishment procedure for violation of condition of suspension of sentences

8. (1) The prisoner shall be in a cautious vigilance of the district administration within the duration of the suspension of sentence. The superintendent of jail shall inform to the District magistrate of concerned district and the Director General of Prisons about the over stay and unauthorized absence of a prisoner from the jail after expiry of the period of suspension of the sentence and request the District Magistrate and Superintendent of Police concerned to cause the arrest of the said prisoner.
- (2) Any prisoner whose sentence has been suspended for a specified period:-
- (a) If he surrenders or is arrested in jail after delays within three days, his indispensability will be recorded in the prison register.
- (b) If he surrenders in jail after three days delays or is arrested, then the suspension of his sentence will not be accepted for next two years.

By order,


(Anand Bardhan)
Principal Secretary

APPLICATION FOR SUSPENSION OF SENTENCES

{See rule 5(1)}

1. Name of Prisoner _____
2. Name of Father/Husband _____
3. Address of prisoner _____
4. Police Station _____ Tehsil _____ District _____
5. Jail where the prisoner is confined _____
6. Section of crime and sentence awarded to the prisoner _____
7. Name of the convicting court _____
8. Date of sentence _____
9. Total Sentence served till date _____
 (a) Without Remission _____ (b) With Remission _____
10. Whether any appeal or revision is pending before any court or not _____
11. Whether suspension of sentences was granted earlier (If yes give details) _____

12. Grounds of suspension of sentences application _____
13. Period for which suspension of sentences is applied _____
14. If request for extension of suspension of sentences is applied:
 - a. Total period of suspension of sentences sanctioned till date _____
 - b. Number of times suspension of sentences granted _____
 - c. Date on which sanctioned previous suspension of sentences is expiring _____
 - d. Period for which extension in suspension of sentences is applied _____
15. If suspension of sentences is applied on grounds of marriage, then:
 - a. Name of the daughter/son and father's name: _____
 - b. Age of Daughter/Son: _____
 - c. Father's name of the person with whom the marriage is being solemnized: _____
 - d. Age of his/her: _____

Note:-The details of the boy and the girl whose marriage is to be solemnized be given essentially

16. If suspension of sentences is applied for agriculture work:
 - a. Whether application is for cultivation: _____
 - b. Whether application is for Harvesting a crop: _____
 - c. In both the cases indicate whether some other person is not available for the above work, give details: _____

17. In special emergency situations where the presence of prisoner is necessary, Such as the collapse of a house of a prisoner's, or other natural disaster, which is to be confirmed by the District Magistrate. _____

18. Any other reason for suspension of sentences _____

Date:

Signature of applicant,

1. Name of applicant _____
2. Name of father/husband _____
3. Relation with the prisoner _____
4. Village/Town _____
5. Post Office _____
6. District _____

Special Information – The period of suspension of sentences shall not count towards the sentence

PEROFRMA FOR SUSPENSION OF SENTENCES "JAIL REPORT"

{See rule 5(1)}

Date _____ (Date of issue)

1. Jail entry Register Number _____ 2. Prisoner Number _____
3. Name of the Prisoner _____ 4. Father/Husband Name _____
5. Current Age _____ 6. Date of Birth _____
7. Full address of the prisoner _____
- 8.(a) Name of the convicting court _____
- (b) Date of conviction _____
9. Details of Commutation and date of death sentence, Life imprisonment or any other Sentence _____
- _____
10. Crime no, ST no, C rime Sections and period of sentence _____
11. Punishment Period _____
12. (a) Date of Admission in jail _____
- (b) Date of Re-admission in jail _____
13. Sentence Convicted Till Date _____

	Year	Month	Days
Actual/Without Remission			
Earned Remission			
Total Sentences with Remission			

- 14 Status Appeal/Revision in court _____
15. Details of other pending cases against the prisoner (if any) _____
16. Conduct of prisoner in jail (Along with details of jail punishment) _____
17. Health Of Prisoner (Explicitly Mentioned) _____
18. Full detail of previous suspension of sentences /home leave sanctioned to the prisoner _____
- _____

19. Whether the prisoner has surrendered on time in jail on earlier sanctioned suspension of sentences /home leaves. If no, then details of the period and punishment awarded _____

20. Whether Mercy petition of the prisoner is pending _____

Senior Superintendent/Superintendent
Of Jail

Forwarded-

Inspector General Of Jail
Uttarakhand

FORM – III

PRESCRIBED FORM FOR OBTAINING REPORT FROM DISTRICT MAGISTRATE

{ See rule 5(2) }

1. Brief Criminal history of prisoner and latest position of pending cases _____

2. Details of family members of prisoner _____

3. Details of parole/home leaves previously availed by the prisoner and his conduct during the period

4. Confirmation of grounds/reasons for grant of suspension of sentence as mentioned by the prisoner

5. Recommendations along with reasons whether the suspension of sentence should be sanctioned to the prisoner or not

